U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32630858

Date: AUG. 8, 2024

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner is a martial artist who seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Texas Service Center Director denied the Form I-140, Immigrant Petition for Alien Workers (petition), in November 2018 concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did he demonstrate that he met at least three of the ten regulatory criteria. We dismissed the Petitioner's appeal and eight subsequent motions. The matter is again before us on a combined motion to reopen and motion to reconsider. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375–76 (AAO 2010). Upon review, we will dismiss the combined motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome). On the other hand, a motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Stated differently, the issues here are whether the Petitioner: (1) has submitted new facts, supported by documentary evidence, to warrant reopening, and (2) has established that we incorrectly applied the law or U.S. Citizenship and Immigration Services (USCIS) policy in dismissing his fifth combined motion to reopen and reconsider.

And the matters the Petitioner must first overcome within this motion are limited to the issues discussed within our most recent decision; the decision on his eighth motion. General support that a motion must first overcome the most recent decision lies within the regulation at 8 C.F.R. § 103.5(a)(1)–(3) where it repeatedly discusses the underlying or latest decision, it limits the time one has to file a motion after the most recent decision, and it references jurisdiction resting with the entity who made the latest decision. This demonstrates that any motion must first address and overcome the

most recent adverse decision before the filing party's arguments may move on to any issue that arose in a previous petition, appeal, or motion filing.

Therefore, we will only consider new facts supported by evidence (for the motion to reopen) to the extent that it pertains to our latest decision dismissing the motion to reopen dated February 5, 2024. Likewise, we will only address the Petitioner's arguments that we erred in some manner (for the motion to reconsider) in that same decision. We will not entertain any discussion for any decision that occurred throughout these proceedings unless the Petitioner first shows "proper cause" to reopen or reconsider our February 5, 2024 decision. *See* 8 C.F.R. § 103.5(a)(1)(i).

Multiple motion filings serve to thwart the strong public interest in bringing issues to a close, particularly in immigration proceedings where every delay works to the filing party's advantage who wishes to remain in the United States. *Cf. Hernandez-Ortiz v. Garland*, 32 F.4th 794, 800–01 (9th Cir. 2022) (citing *INS v. Doherty*, 502 U.S. 314, 323 (1992) and *INS v. Abudu*, 485 U.S. 94, 107–08 (1988)). USCIS has the latitude and discretion to be restrictive in granting motions, as granting them too freely can create endless delays to a final resolution, not to mention needlessly wasting government resources attending to repeated requests. *Cf. Abudu*, 485 U.S. at 108. This demonstrates why a filing party may encounter procedural hurdles when they seek a motion, and that burden incrementally increases with each subsequent motion filing. *Id.*

The procedural history relating to this filing is lengthy and it is not necessary for us to restate it here. We incorporate the history by reference from our previous discussion on the matter, but it is enough to say that this is the tenth filing the Petitioner has executed with our office after the Director denied the petition in 2018. For the same reason we dismissed motions two through eight, we reach the same decision here.

In this motion, the Petitioner submits a statement and evidence relating to the merits of his eligibility for the visa classification he asserted before the Director. While the Petitioner's statement accompanying this motion is not a carbon copy of the material he submitted in the previous motion, it is more like two pages from the same book, differing slightly but telling the same story. What's important is no portion of this new statement addresses our most recent decision dismissing motion number eight. Instead, the Petitioner generally asserts his eligibility for the visa classification, but he does not explain or point to any factual, legal, or policy error in our February 5, 2024 decision. The Petitioner's repetitive motions that do not address our previous decision, and instead continue to argue the merits of the visa classification, but doing the same thing over and over will not yield a different result.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) limits our authority to reopen or reconsider to situations where the Petitioner has shown "proper cause" for that action. So, to warrant a reopening or reconsideration, he must not only meet the formal filing requirements—submission of a properly completed Form I-290B, Notice of Appeal or Motion, with the correct fee—but he must also show proper cause for granting the motion. We must dismiss a motion that does not meet all applicable requirements. *See* 8 C.F.R. § 103.5(a)(4).

Therefore, we will dismiss his motion to reopen because he does not provide new facts supported by documentary evidence related to our February 5, 2024 motion decision. *See* 8 C.F.R. § 103.5(a)(2).

Also, we will dismiss the Petitioner's motion to reconsider since he does not establish that we were incorrect in our ultimate determination in that same decision. *See* 8 C.F.R. § 103.5(a)(3).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.